



PRIVATE SECURITY SECTOR PROVIDENT FUND
REQUEST FOR BID:
LEGAL SERVICES
Nov-18

DESCRIPTION: INVITATION TO BIDDERS TO SUBMIT PROPOSALS FOR THE APPOINTMENT OF LEGAL SERVICES PROVIDER FOR PRIVATE SECURITY SECTOR PROVIDENT FUND (PSSPF)

Closing Date: Friday, 18 January 2019

Time: 16h00

1. REQUEST FOR PROPOSAL

The PRIVATE SECURITY SECTOR PROVIDENT FUND (“the Fund” or “The PSSPF”) herewith invites proposals from suitably qualified service providers to submit responses to this Request for Proposal (RFP) for appointment as Legal Services Providers (hereinafter the “Service Provider”) of the Fund.

2. PURPOSE

The purpose of this RFP document is to provide broad details relevant to the services required and is not intended to provide a detailed overview of every action required.

3. OVERVIEW

3.1 The Fund

The Fund is a defined contribution fund with assets under management in excess of R6 billion.

4. RFP RESPONSE GUIDELINES

4.1 Background

The Fund wishes to appoint suitably qualified legal services providers to the Panel.

By submitting a response to the RFP sent out by the Fund, a respondent automatically undertakes to be bound by and agrees to the conditions set out in this entire document. Respondents that do not consider themselves bound by the provisions of this entire document should not respond to the RFP, as submission of a response pre-supposes consent to the terms of this agreement.

4.2 Scope of work

The successful respondents will be placed on the Panel. The allocation of work to respondents appointed to the Panel will be at the sole and absolute discretion of the Fund. Without derogating from the generality of legal services that may be required from the firm, the Fund may require services in various fields of law including Pension Funds law, BBBEE law, Commercial and Business law, Company law and Corporate Governance, Contract law, Due Diligence investigations, Employment law, Financial Markets and Investments (including

Private Equity and Fund Formations), Criminal process, Insurance law, Litigation and Alternative Dispute Resolution.

4.3 Point of contact

This RFP is issued on an open tender notice format with a definite closing date and time. Respondents are required to submit their responses in expansive detail and in time to qualify for consideration of their responses.

During the open response time the central point for all enquiries relevant to the provision of background information and points of clarity relevant to this RFP will be Mziwandile Peter Zibi, the Principal Executive Officer at the Fund. In the interest of all parties concerned all queries must be submitted **in writing only** and responses to queries or points of clarity will be published in the "Tenders" section of the Fund's website (www.psspfund.co.za).

The electronic mail address for queries is judy@psspfund.co.za. **No telephonic or verbal queries will be entertained.**

4.4 RFP process and submission procedure

The Fund will review proposals at its discretion against a set of pre-defined criteria and will rate each proposal on its ability to satisfy the requirements stated in this RFP.

Successful respondents (if any) will be formally notified. A formal agreement will be entered into between the Fund and the successful respondents, appointing them to the Panel and detailing issues such as the scope of work and the terms of the contract and the contracting period.

Potential service providers are requested to be mindful of the time allowed for responses, the closing date and time, the delivery address for proposals and must note that late or incomplete submissions will not be considered.

The RFP must be submitted with the necessary supporting detail and must provide the information requested in this RFP.

The Fund reserves the right to consider any proposal in its entirety or partially, and the right not to make any appointments to the Panel. The Fund's decision is final and no further correspondence will be entered into.

4.5 Submission date, time and address

The closing date for submission of proposals at the delivery address indicated below is Friday, 18 January 2019 at 16h00. RFPs must be submitted in a sealed envelope and addressed to:

The Head of the Procurement Committee

**Panel of Legal Services Providers
PRIVATE SECURITY SECTOR PROVIDENT FUND**

The RFPs must be placed in the Fund's official Tender Box that is placed in the reception area at:

**SALT OFFICE
Central Park Office
No 400 16th Road
Randjespark
Block Q
Midrand
1685**

Respondents must ensure that whoever delivers the proposal to the Fund takes care to complete the RFP register at the reception desk.

The responses should be bound and packaged in such a way to ensure that the overall size of the submission/s does not exceed the size of an A4 Lever Arch file as this is the maximum size that can be accommodated by the tender box slots. Multiple packs may be submitted and should be clearly marked and numbered to ensure identification after the closing of the RFP.

Proposals may not be faxed or e-mailed and proposals received by any other means other than being placed in the tender box will not be considered and will be rendered invalid.

4.6 RFP process requirements

The following minimum requirements will be applied to the RFP process:

- i. Responses received after the closing date and time will be considered late and **will not** be accepted. If a response is considered late, it will be returned unopened to the return address of the relevant respondent identified on the response envelope.
- ii. In the absence of a clear return address on the envelope, any late response or any additional documentation/items will be destroyed by the Fund.
- iii. All responses must be submitted in full and complete on or before the closing date and time. The Fund will not allow additions and/or amendments to any response to be submitted after the closing date and time and will not receive various documents or items in separate envelopes as one submission post the said closing date and time.
- iv. Responses may be withdrawn in writing by a respondent prior to the closing date and time.
- v. All enquiries relevant to the RFP may only be submitted to the indicated point of contact and in writing. **Telephonic and/or verbal enquiries will not be entertained.**
- vi. During the course of this RFP process, respondents may acquire confidential information relating to the Fund's business, projects and/or members. Respondents are required to keep this information strictly confidential at all times (even after the RFP process has been completed) and may not use or attempt to use or allow such

information to be used for personal gain or the gain of any other person or institution.

- vii. Respondents may not disclose any such confidential information to any third party, but to the extent that such disclosure may be necessary for the submission of a formal proposal, must approach the Fund for prior approval to share any information with any third party. This does not apply to information which must, by law, be disclosed or becomes available to and known by the public due to no fault on the part of the respondents.
- viii. Respondents must comply with the highest ethical standards in order to promote mutual trust and an environment where business can be conducted with integrity, in a fair and reasonable manner.
- ix. Respondents must, on the official letterhead of the firm submitting the response, declare that:
 - the information provided in all documentation is true and correct; and
 - the signatory of the tender document is duly authorised to do so by means of a special or general resolution of the company responding.
- x. Proposals submitted to the Fund must remain valid for a minimum period of 90 days from the closing date.
- xi. Respondents will be held to the proposals submitted. The Fund reserves the right to negotiate the modification of a proposal with the successful respondents in whole or in part.
- xii. Agreements reached after such modifications with the successful respondents, or parts thereof, and accepted by the Fund will form part of the contract.
- xiii. Each proposal will be evaluated for general conformity to specifications and the demonstrated capabilities of respondents to execute the scope of work.
- xiv. Respondents must provide the curricula vitae of all key professionals they propose for execution of the scope of work, with clearly defined fields of expertise, functions and responsibilities.
- xv. In general respondents must indicate the experience and field/s of expertise of their firms and must specifically indicate previous work done in the retirement fund and financial services industry, if any.
- xvi. Respondents are responsible for any and all costs and liabilities incurred in responding to this RFP. The Fund will not be responsible for any costs whatsoever or howsoever arising.
- xvii. The Fund reserves the right to withdraw this RFP for any reason and at any time without incurring any cost or liability.
- xviii. The Fund reserves the right to withdraw, at any stage of this process, amend or cancel this RFP, reject or not accept any or all proposals, obtain any information from

any lawful source regarding past business history and practices of the respondent, and to take any such information into consideration in the evaluation process.

- xix. The Fund is under no obligation to explain acceptance or rejection of any specific service provider(s) and the Fund's decision is final and binding, no correspondence will be entered into.
- xx. The Fund reserves the right to appoint another service provider to provide the same or similar services without consultation with the service providers that may be appointed through this process.

4.7 Structure of responses

All responses are required to be prepared as follows:

- 4.7.1 Proposals must be electronically generated and one printed original must be signed by the individual(s) legally authorised to bind the respondent.
- 4.7.2 Legibility, clarity and completeness are essential.
- 4.7.3 The RFP response must contain the following:
 - i. One original tender document with 5 copies, clearly marked, bound and signed as original and copy, fee schedule and supporting documents:
 - 1 digital/electronic copy of the RFP response on a memory stick; and
 - The electronic copies of the RFP proposal and/or examples of work must be provided in Adobe Reader Portable Document Format (PDF), free of any viruses or malicious ware.
- 4.7.4 **Responses must be prepared as simply as possible, providing a straightforward, concise description of the interested parties and the capabilities available to satisfy the requirements of the RFP.**
- 4.7.5 **Failure to prepare** responses in the manner specified above will result in the relevant response being disqualified.

4.8 Evaluation criteria

Respondents will be evaluated according to the extent to which they are able to fulfil the requirements of the Fund. Evaluation criteria will place particular emphasis on the following areas:

4.8.1 Track record

Respondents must provide evidence of their capability and experience in providing the services sought by the Fund.

Respondents must have expertise in at least one of the fields of law stipulated in this RFP with appropriate proven experience. Respondents will be required to:

- Demonstrate that they have sufficient infrastructure and resources to support the execution of any instructions that may be assigned to them in the event that they are appointed to the Panel;
- Demonstrate a good understanding of the regulation of pension funds; and
- Demonstrate a sound track record of providing legal services to medium to large clients.

4.8.2 Fee structure

The fees and costs schedule must be complete and must indicate at least the following:

- Hourly rate for each professional person proposed to form part of the team assigned to provide services to the Fund;
- Retainer rate for services provided; and
- Any other fees or costs to be borne by the Fund that may be applicable.

Respondents must indicate whether or not the hourly rates set out in the fee structure are negotiable.

All fees quoted **must be indicated both exclusive and inclusive of VAT**.

4.8.3 Empowerment / B-BBEE

The Fund is committed to advancing the objectives of B-BBEE and details of the service provider's B-BBEE credentials, supported by a copy of a rating certificate from a SANAS or IRBA accredited rating institution, and where applicable, an affidavit in the prescribed format, with details of the relevant company profile must be provided. At the very least, specific reference must be made to:

- Ownership structure and shareholding;
- Board representation;
- Executive / Operational Management structure;
- Demographic composition of the team proposed to service the Fund;
- Gender equity profiles for all staff; and
- Secondary B-BBEE initiatives, such as procurement from B-BBEE suppliers and other initiatives.

These details must be clearly stated in the order requested and with the headings as above. The Fund views Broad-Based Black Economic Empowerment (B-BBEE) as a critical initiative for inclusive and sustainable economic growth and prosperity in South Africa. We actively seek to be a leader in transformation within our operating environment and to this end, we have put policies in place that favour the procurement of goods and services from black owned or empowered businesses. For further information on the Fund's B-BBEE Policy and initiatives, visit the Fund's website to source further information.

4.8.4 Requirement of respondents

Respondents must be well-established firms that have been in business for a minimum of three years and must be able to demonstrate their experience in providing advice to medium to large corporate clients.

Respondents must provide supporting documentation to indicate the period of time they have been in operation and services they have provided. Responses from respondents who have not been in business for a minimum of three years will not be considered.

4.8.5 Company details and stability

Please provide a response to each of the following:

- i. How long the firm has been in operation;
- ii. The areas of law the firm renders services in, paying particular attention to core activities and highlighting areas where it lacks expertise; and
- iii. Details of the firm's structure and key professionals to be allocated to service the Fund if the respondent is successful.

4.9 Supporting documentation

The respondents must include the following supporting documentation with their proposals:

- Fidelity Fund Certificates for all the partners in the Firm;
- Originally certified proof of qualifications of key professionals proposed to service the Fund;
- Firm registration papers;
- Proof of Professional Indemnity Cover;
- List of references and at least three reference letters from current and/or previous clients stating the name of the client, contact numbers, work performed and dates when such work was performed. The references may be contacted by the PSSPF for verification
- Letter of good standing with the Law Society of South Africa
- Original and valid Tax Clearance Certificate indicating good standing with the South African Revenue Services (SARS);
- A detailed statement of the company's B-BBEE credentials as required, supported by a rating certificate from a SANAS or IRBA accredited rating agency, or where applicable, an affidavit in the prescribed format. In the case of a joint venture the above-mentioned documentation need only be supplied for the guaranteeing entity;

Respondents will be disqualified from the RFP process if any of the above-mentioned details and/or documents are not submitted.

5. Terms of Business

The Fund hereby sets out the Terms of Business and the respondent hereby accepts the conditions that will apply in the event that it is appointed to the Panel.

These Terms of Business will form part of the agreement between the Fund and the Firm.

An additional agreement detailing the services to be rendered will be entered into. These Terms of Business will establish the basis of such an agreement to provide the services as outlined in the RFP, and will serve to explain the conditions under which the appointment to the Panel is made.

6. The services to be provided

6.1 The services

The service provider will provide the services described in the RFP, and in the timeline (s) to be set out in the agreement. The services described in the RFP are not an exhaustive list of all services to be performed by the successful respondent.

Where the agreement refers to services to be performed this means that the service provider will, if required by the Fund, provide the Fund with the services and will be responsible for the management and control of the services and the quality of any deliverables listed in or referred to in the agreement.

6.2 The service provider's staff

The service provider will ensure that all members of its staff assigned to service the Fund are available to support its work for the Fund stated in the agreement.

Where the service provider considers changes in its named staff necessary or appropriate, for reason of, inter alia, resignation, relocation, training or illness, the service provider may make the changes after giving the Fund reasonable notice and will provide the Fund with details of replacement staff.

6.3 Contract management

Both parties may designate a contact person that will be responsible for managing all issues relating to the performance of the agreement.

7. FEES AND PAYMENT

The fees payable to the Fund in consideration for the performance of the services shall be in line with the fee structure agreed between the Fund and the firm. The fee structure shall apply to all legal services rendered to the Fund by the firm, including services rendered in respect of any special projects assigned to the firm by the Fund.

8. TERM, SUSPENSION AND TERMINATION

8.1 Duration of contract

The agreement will apply from the Commencement Date stated, or where no Commencement Date is specified, from the date of signature of the agreement by both parties. The agreement will continue until the agreed termination date, unless it is terminated earlier in accordance with the provisions of the Agreement.

8.2 Termination of the contract

Unless stated otherwise in the agreement, the contract may be terminated by either party at any time by giving the other party no less than 30 days written notice. The Fund however reserves the right to terminate the agreement by giving a 24 hours written notice.

Where the Contract is terminated in this way the Fund will pay the service provider for all services rendered and completed up to the date of termination.

8.3 Termination for breach of contract

The agreement may be terminated by either party by written notice with immediate effect if the other commits a material breach of any term of the services agreement that is not remedied within 14 days of dispatch of a written request to remedy same, where such breach is capable of being remedied.

8.4 Termination for insolvency

The agreement may be terminated by either party by written notice in the event that the other party is unable to pay its debts or has been placed under administration, judicial manager, liquidator or similar person or officer appointed or compromises generally with its creditors or ceases for any other reason to carry on business or in the reasonable opinion of the other party any of these events appears likely.

9. CONFIDENTIALITY AND CONFLICTS OF INTERESTS

9.1 By signing the agreement, each party is under a professional obligation not to disclose to a third party any information confidential to the other party. Similarly, reports by the service provider are for the use of the Fund exclusively and may not be disclosed to third parties without the Fund's prior written consent.

9.2 Notwithstanding 9.1 above, either party will be entitled to disclose confidential information of the other to a third party to the extent required by law or where the said information is already known to the public due to no fault on the other party, provided that in the former case (and without breaching any legal requirement), where reasonably practicable not less than five business days' notice in writing is first given to the other party.

10. LIABILITY

The service provider shall accept liability to pay compensation for damages and losses suffered by the Fund arising as a direct result of breach of contract, misconduct, dishonesty/fraud or negligence (including gross negligence) on its part or third parties acting on behalf of the service provider in respect of services provided in connection with, or arising out of the agreement (or any variation or addition thereto). To this end, the Firm will maintain sufficient professional indemnity cover for the duration of the Agreement.

11. GENERAL

11.1 Force majeure

Neither of the parties to the agreement shall be liable to the other for any delay or failure to fulfil obligations caused by force majeure events.

11.2 Assignment

Neither of the parties to the agreement may cede, assign, delegate, transfer, encumber, charge nor otherwise seek to deal in any of its rights or obligations under the agreement without the prior written consent of the other party.

11.3 Notices

Notices must be served either personally, sent by prepaid registered post or emailed to the address of the other party given in the agreement or to any other address as the parties may have notified during the period of the agreement. Any notice sent by registered post will be deemed to have been delivered 10 days after sending. Any notice sent by fax or served personally will be deemed to have been delivered on the first working day following its dispatch.

11.4 Amendment

Any amendment or consensual variation, cancellation or termination of the agreement, or any of its terms, will not be effective unless agreed in writing and signed by both parties.

11.5 Survival

The confidentiality clause in the agreement shall survive the termination or expiry of the agreement and shall continue to bind the parties to the agreement.

11.6 Electronic communications

During the provision of the services, the Fund may from time to time communicate electronically. However, as the service provider is aware, the electronic transmission of information cannot be guaranteed to be secure or error-free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use.

Accordingly, whilst the Fund carries out commercially reasonable procedures to check for the most commonly known viruses and to check the integrity of data, it remains the service provider's responsibility to carry out a virus check on any documents before launching them, whether to be sent or to be received on disk or otherwise. Therefore and notwithstanding any collateral contract, warranty or representation, the Fund will have no liability to the service provider on any basis, whether in contract, delict (including negligence) or otherwise, in respect of any error or omission arising from or in connection with the electronic communication of information to or from the service provider and the service provider's reliance on such information and including (but not limited to) the acts or omissions of the relevant service providers.

If the communication relates to a matter of significance on which the service provider wishes to rely and is concerned about the possible effects of electronic transmission, the service provider should request a hard copy of such transmission from the Fund.

11.7 Validity of contract provisions

If any provision of the agreement is held to be invalid, in whole or in part, such provision shall be deemed not to form part of the agreement and will not affect the enforceability of the remainder of the agreement.

11.8 Conflict

In the event of any conflict between the agreement and any other document that forms part of the agreement, the provisions of the agreement shall prevail except where amended by specific reference to the relevant Clause of the Terms of Business. In the event and only to the extent of any conflict between the agreement and any referenced or attached document other than the Terms of Business, the agreement will take precedence.

11.9 Applicability

The agreement shall apply to work undertaken in relation to the service provider, its holding company or any of its subsidiary, associated or related companies, agents or sub-contractors providing services in terms of the agreement.

12. GOVERNING LAW

The provisions of the Agreement shall be construed in accordance with the laws of the Republic of South Africa. The parties submit to the non-exclusive jurisdiction of the Gauteng Local Division, Johannesburg.

13. QUOTATION/PROPOSAL CONDITIONS

13.1 Validity of quotations

Quotations must be valid for at least 90 days from the closing date of the tender. Include original valid tax clearance certificates, proof of registration of the business, audited annual financial statements or management accounts and the latest B-BBEE certification.

13.2 Disqualifying criteria

The Fund reserves the right to disqualify any respondent which does any one or more of the following, and such disqualification may take place without prior notice to the offending respondent:

- Failure to submit a valid and original Tax Clearance Certificate;
- Failure to submit firm registration documents;
- Failure to submit complete information and documentation according to the requirements of this RFP;

- Submission of information that is fraudulent, factually untrue or inaccurate, for example memberships that do not exist, B-BBEE credentials, experience, etc.;
- Failure to submit certified copies of fidelity fund certificates;
- Failure to submit certified proof of qualifications;
- Submission of information not available to other vendors through fraudulent means;
- Failure to submit list of references of past and current clients; and;
- Failure to sign the RFP register on submission of the RFP.

13.3 Weighting criteria

The following weighting criteria will apply:

A. Technical ability

Management Plan	
Key Activities	10
Time-Lines for Delivery	10
Roles and Responsibilities	10
Subtotal	30

B. Competency and Profile of Key Personnel

Capacity	10
Expertise – Curriculum Vitae of prospective bidders	15
Management profile	10
Membership to the professional body	5
Subtotal	40

C. Experience

Experience in similar processes – A track record of successful and timely performance of similar assignments	20
Subtotal	20

D. Proposed Approach in the Execution of Services

Proposed operational method – Detailed explanation of methodology and process to be adopted to fulfil the assignment. Project Management, Technical and Analytical skills	10
Subtotal	10
Grand Total	100

13.4 Closing date for proposal submission

The closing date for submission of proposals at the delivery address indicated below is Friday, 18 January 2019, 16h00.

14. Acceptance

By signature of this document, the service provider agrees to be bound by the terms of business contained herein.

Signed in acceptance on behalf of

.....being duly authorized thereto.

Signed at.....on this.....day of.....2018

Name & Surname.....

Designation.....

Signature.....